

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES – GENERAL

Case No. EDCV 15-1409-PA (KS) Date: March 28, 2016

Title *Daniel Michael Arnold v. San Bernardino County Sheriff's Department*

Present: The Honorable: Karen L. Stevenson, United States Magistrate Judge

Roxanne Horan-Walker
Deputy Clerk

Court Reporter / Recorder

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Proceedings: (IN CHAMBERS) ORDER TO SHOW CAUSE RE DISMISSAL

On December 22, 2015, plaintiff, a California state prisoner proceeding *pro se* and *in forma pauperis*, filed his second amended civil rights complaint pursuant to 42 U.S.C § 1983 (“Complaint”). (Dkt. No. 19.) On January 7, 2016, the Court directed the United States Marshal to serve the Complaint and ordered plaintiff to file with the Court, no later than February 8, 2016, copies of the USM-285 forms that he submitted to the U.S. Marshal. (Dkt. No. 22.) On January 25, 2016, plaintiff filed a motion for an extension of time to file the copies of the USM-285 forms, which the Court granted. (Dkt. Nos. 26, 27.) The Court ordered plaintiff to file the copies of the USM-285 forms no later than March 8, 2016. (Dkt. No. 27.)

Nineteen days have now passed since plaintiff’s deadline for filing copies of the USM-285 forms, and he has not filed the USM-285 forms with the Court. Accordingly, the Court may now recommend dismissal of the action pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, which states that a civil action is subject to involuntary dismissal if a plaintiff “fails to prosecute or to comply with these rules or a court order.”

However, in the interests of justice, plaintiff is **ORDERED TO SHOW CAUSE on or before April 28, 2016**, why the Court should not recommend that this action be dismissed for failure to prosecute and comply with court orders. If plaintiff wishes to proceed with this action, he may discharge this Order by filing: (1) a declaration signed under penalty of perjury that establishes good cause for plaintiff’s failure to comply with the Court’s orders; and (2) copies of the USM-285 forms that were provided to the United States Marshal Service. Alternatively, if plaintiff does not wish to pursue this action, he may file a document entitled “Notice Of Dismissal” pursuant to Rule 41(a) of the Federal Rules of Civil Procedure.

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Plaintiff is further advised that his deadline for effecting service in this case is fast approaching. *See* FED. R. CIV. P. 4(m) (“If a defendant is not served within 90 days after the complaint is filed, the court – on motion or on its own after notice to the plaintiff – must dismiss the action without prejudice against that defendant or order that service be made within a specified time.”). If plaintiff fails to effect service on or before April 7, 2016 and fails to demonstrate good cause for his failure, the matter will be dismissed. *See* FED. R. CIV. P. 4(m); *see also Hamilton v. Endell*, 981 F.2d 1062, 1065 (9th Cir. 1992) (the “good cause” exception to Rule 4(m) applies “only in limited circumstances” and is not satisfied by “inadvertent error or ignorance of the governing rules.”); *Townsel v. County of Contra Costa*, 820 F.2d 319, 320 (9th Cir. 1987) (plaintiff’s ignorance of Rule 4 is not good cause).

Plaintiff is advised that the failure to timely comply with this order may result in the dismissal of his case pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and Local Rule 41-1.

IT IS SO ORDERED.

Initials of Preparer

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